

**CITY OF MORGAN HILL
JOINT REGULAR & SPECIAL CITY COUNCIL
AND REGULAR & SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – JUNE 28, 2006**

CALL TO ORDER

Mayor/Chairman Kennedy called the meeting to order at 6:01 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Grzan, Sellers, Tate and Mayor/Chairman Kennedy
Late: Council/Agency Member Carr (arrived at 6:05 p.m.)

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

City Attorney/Agency Counsel Kern announced the below listed closed session items:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b) & (c)
Number of Potential Cases: 2

2.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Authority: Pursuant to Government Code 54956.9(a)
Case Name: Rossi v. City of Morgan Hill
Case Number: Santa Clara County Superior Court, Case No. 1-05-CV-046010
Attendees: City Manager; City Attorney

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairman Kennedy opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 6:05 p.m.

Council/Agency Member Carr joined the City Council/Agency Board in closed session.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 7:04 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Kern announced that no reportable action was taken in closed session.

Mayor/Chairman Kennedy announced that the Council would reconvene to closed session at the conclusion of the open session under the special meeting agenda as it relates to the City Manager's performance evaluation.

City Council Action

1. INTERVIEW TO FILL A VACANCY ON THE LIBRARY, CULTURE & ARTS COMMISSION

The City Council interviewed Emily Reich Shem-Tov to fill one of two vacancies on the Library, Culture & Arts Commission.

Mayor Kennedy indicated that he would be willing to proceed with a recommendation to appoint Ms. Shem-Tov to serve a two-year term on the Library Cultural & Arts Commission this evening.

Action: *On a motion by Council Member Carr and seconded by Council Member Tate, the City Council unanimously (5-0) **Confirmed** the Mayor's **Appointment** of Emily Reich Shem-Tov to serve a 2-year term on the Library, Culture & Arts Commission; expiring April 1, 2008.*

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORT

Council Member Tate stated that the City's Youth Advisory Committee (YAC) sponsored a two-day leadership class for youth and that it was a success. He acknowledged Katherine Soult, who recently graduated from Live Oak High School with honors and will be attending Santa Clara University; and Samantha Bondi, a senior at Sobrato High School. He indicated that these two YAC members recruited excellent speakers and organized activities for this two-day session. He said that the twelve students attending the two day session enjoyed and profited from the sessions. He stated that he and Council Members Sellers attended a two-day ethics camp at Santa Clara University. Both he and Council Member Sellers came home with materials and great information. He stated that the camp was on value-based ethics and how to include ethics into an individual's personal ethical framework. Time was not spent debating the values, but on discussing individual values. The trainers spent a lot of time trying to develop a logical approach to ethical questions, and putting it into a framework where individuals can

make ethical decisions. He felt that this was a stimulating fun session where interchanges occurred with others in attendance. The second day was spent on the rules side of ethics as they apply to California Law.

Council Member Sellers addressed the ethics camp, stating that there were items he wanted to share with colleagues in attendance. He implored his colleagues to try and figure out a way to gain a broader participation from other City elected officials. He noted that Morgan Hill was the only city who had two elected officials in attendance both days of the ethics camp. He recommended that attendance should be expanded to other cities. He felt that the City was in a position to take ethics up a notch; becoming exemplary for the rest of the region. This is possible based on what the City has already done with the adopted value-based ethics that remains a viable active document. He did not believe an individual is done with ethics once an ethics acknowledgement form is signed, as ethics is an every day process. He also felt that ethics is a skill such that the more you utilize these skills, the more ethical an individual becomes. He recommended the Council expand the opportunity throughout the organization. He said that on the second day, those in attendance heard that one of their colleagues from the City of San Jose had been indicted and facing significant disciplinary actions as well as legal actions. He said that individuals understand that there are significant legal consequences in taking on the responsibility of being an elected official. He felt that everyone can aspire to a higher degree of ethical conduct and transparency in government that inspires additional confidence by the people individuals are elected to serve.

CITY COUNCIL COMMITTEE REPORT

CITY MANAGER REPORT

City Manager Tewes noted that last week, the Council adopted the City's annual budget for FY 2006-07. The budget document included a number of assumptions about how the state budget would impact the City. He indicated that staff made assumptions about whether or not the State would continue the program of paying for booking fees on behalf of counties, and whether or not the State would appropriate money under Proposition 42 for street maintenance activities. He said that it was not known that the State would adopt their budget before the end of the fiscal year, noting that State officials adopted their budget today. He stated that staff's assumptions proved to be correct. He said staff's assumptions were included in the City's final budget document.

City Manager Tewes addressed this evening's agenda. He informed the Council that item 17 will be pulled from the Consent Calendar in order to take a separate Council vote. He noted that on the Dais, the Council has a supplemental report for item 17 which would approve a preliminary engineering report. The supplemental material adds an asterisk that states the data contained in the report is subject to revision in the final engineering report as staff is conducting an audit on water bills for the various assessment districts. Item 19, it is a hearing on a zoning matter and the Council has a letter on the Dais from an individual regarding this matter and that he would like to make sure the letter is made a part of the record.

CITY ATTORNEY REPORT

City Attorney Kern informed the Council that she does not have a report to present this evening.

OTHER REPORTS

Council Member Sellers indicated that the Regional Planning and Transportation Committee discussed the fact that the City was invited to participate in the new Valley Transportation Authority (VTA) Caltrain subcommittee.

Mayor Kennedy said the VTA has a Policy Advisory Committee (PAC) which has a council member or mayor from each city in Santa Clara County serving as a member. Recently, PAC appointed a policy advisory board to be made up of members from each city. The policy advisory board will focus on Caltrain issues. He said that in the new VTA 30-year long range capital expenditure plan, there are approximately \$1 billion in funds earmarked for Caltrain. One of the highest ranking projects is double tracking of Caltrain to Gilroy; allowing reverse commute and expanded Caltrain services. He felt it important that Morgan Hill be represented on the policy advisory board. Therefore, he recommends that Council Member Sellers be appointed as the City's representative to the policy advisory board. He recommended that any issues relating to Caltrain be forwarded to Council Member Sellers attention.

Council Member Sellers said that in looking at the elections coming up this fall, he would like to ensure that there is continuity on the board as Morgan Hill needs to continue to be represented.

Mayor Kennedy stated that he is serving as a VTA Board Member and that when his term as Mayor ends, the Council will need to appoint someone to serve on the VTA board of directors and someone to serve on the policy advisory committee. He recommended the Council give thought to who should serve on the VTA board.

City Manager Tewes said that item 18 on the Consent Calendar contains a recommendation to award a landscape contract. He indicated the City received a protest from the apparent second low bidder. In light of this protest, staff is removing the item from the agenda; returning at a later date once the protest has been resolved.

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comment for items not appearing on this evening's agenda.

Mayor Kennedy announced the following Fourth of July activities: July 3, 3:00 p.m., the City will be signing its agreement with its fourth sister city, the City of Mizuho, Japan. He stated that a reception will be held in the El Toro Room at 3:00 p.m., and is opened to the public. At 6:00 p.m., A Patriotic Sing will take place at Britton Middle School followed by a street dance in the downtown. There will be food music and entertainment taking place in the downtown. On July 4th, a run will take place at 8:00 a.m.; followed by the parade at 10:00 a.m. Following the parade, a festival will take place in the downtown. A firework display will take place in the evening. He stated that he just received invitation

cards from the City's sister city of San Martin de Hidalgo. Professor Eduardo Ramirez Lopez will be presenting an exhibition of his art work beginning July 8 at 6:00 p.m. at the Community & Cultural Center.

No further comments were offered.

City Council and Redevelopment Agency Action

ADOPTION OF AGENDA

City Council Action

CONSENT CALENDAR:

Mayor Kenned requested that items 6, 8 and 11 be removed from the Consent Calendar.

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Approved** Consent Calendar Items 2-5, 7, 9, and 10 as follows:*

2. **MAY 2006 FINANCE & INVESTMENT REPORT - CITY**

Action: ***Accepted** and **Filed** Report.*

3. **AGREEMENT WITH "PACIFIC GROUP" TO PREPARE INDUSTRIAL LANDS AND SOUTHEAST QUADRANT MARKET STUDY**

Action: ***Approved** and **Authorized** Execution of the Agreement; Subject to Review and Approval by the City Attorney.*

4. **AWARD OF CONTRACT TO PROVIDE PUBLIC WORKS TESTING AND INSPECTION SERVICES ON AN AS-NEEDED BASIS**

Action: *1) **Approved** a Professional Services Contract with Testing Engineers, Inc. (TEI) to Provide Public Works Testing and Inspection Services on an As-Needed Basis at a Not-to-Exceed Cost of \$75,000 for Fiscal Year 2006-2007; and 2) **Authorized** the City Manager to Execute a Contract, Subject to Review and Approval by the City Attorney.*

5. **AWARD OF CONTRACT TO PROVIDE PLAN CHECKING SERVICES AND STORM WATER MANAGEMENT ASSISTANCE ON AN AS-NEEDED BASIS**

Action: *1) **Approved** Fiscal Year 2006-2007 Professional Services Contract with Harris & Associates to Provide Contract Plan Checking Services and Storm Water Management Assistance on an As-Needed Basis at a Not-to-Exceed Fee of \$153,770; Subject to Adoption of the Fiscal Year 2006-2007 Budget; and 2) **Authorized** the City Manager to Execute the Contract, Subject to Review and Approval by the City Attorney.*

7. **APPROVAL OF LABORATORY SERVICES FOR POTABLE WATER SAMPLING AND ANALYSIS**
***Action:** 1) Approved Agreement for Laboratory Services for Potable Water Sampling and Analysis in the Amount of \$233,144 to Test America Analytical Testing Corporation; and 2) Authorized the City Manager to Execute the Agreement on Behalf of the City; Subject to Review and Approval by the City Attorney.*
9. **AWARD OF CONTRACT FOR 2006-2007 PAVEMENT RESURFACING PROJECT**
***Action:** 1) Awarded Contract to O'Grady Paving, Inc. in the Amount of \$941,178 for Construction of the 2006-2007 Street Resurfacing and Reconstruction Project; Subject to Review and approval by the City Attorney; and 2) Authorized a \$95,000 (10%) Construction Contingency.*
10. **MEMORANDUM OF UNDERSTANDING (MOU) WITH THE CITY OF MORGAN HILL POLICE OFFICERS ASSOCIATION (POA)**
***Action:** Approved One-Year Memorandum of Understanding with the City of Morgan Hill Police Officers Association.*
6. **DOWNTOWN TRAFFIC CALMING – ONE YEAR REVIEW AFTER JUNE 2005 INITIAL INSTALLATION**

Gary Walton, representing the Downtown Association, stated that it was his understanding that the speed bumps would remain in the downtown, for the mean time, in order to slow traffic down. He said that the Downtown Association would like to see the street narrowed to slow the traffic down and that additional parking be provided. He reported on a second generation traffic calming system from Australia. He stated that Australia's traffic calming system could be applied in the downtown by putting people on the street and creating outdoor areas from the downtown streets. He felt that these items would slow traffic down. An example used in the traffic calming system is the creation of a pace car sticker. Those with pace car stickers would travel the speed limit. If every city vehicle, merchants, and downtown property owners agreed to be pace cars, it would slow traffic down in the downtown. He felt the City needs to look beyond the physical elements such as speed bumps, flashing lights, and speed signs as there are other items to be considered. He informed the Council that the Downtown Association is supportive of retaining the speed bumps in the downtown as it is their belief they slow traffic down.

Mayor Kennedy said that when he visited Ireland in March 2006, he noticed that many of the major highways approaching cities, the Irish traffic department created narrow sections in the streets. He did not believe the City narrowed the road enough. He felt that narrowing the roads would be an effective, economical way of slowing traffic down.

Action: No action taken; **Information** Only.

8. PUBLIC WORKS LANDSCAPE MAINTENANCE AGREEMENT FOR FISCAL YEAR 2006-2008

Action: *This item was removed from the agenda.*

11. PARK AND SPECIAL EVENT USER FEES

City Manager Tewes said that the recommendation for item 11 is to set July 26, 2006 as the hearing date for proposed park rental charges and special event user fees. He indicated that earlier today, Mayor Kennedy requested additional information. He said that it is staff's intent to provide additional information at the July 26, 2006 hearing.

Mayor Kennedy referred to item 11, page 105 of the agenda packet. He stated that the table with proposed rates is not clear. It is not clear what the City's annual operating costs are for all playing fields or how much of these costs are being offset by user fees. He inquired whether staff could provide a total cost of what is being paid to operate City fields and how much is being received in income for the use of the fields. He clarified that this is the information he requested from staff.

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council unanimously (5-0) set the Public Hearing Date for July 26, 2006 for the Proposed Park Rental Charges and Special Event User Fees.*

Redevelopment Agency Action

CONSENT CALENDAR:

Chairman Kennedy requested that item 13 be removed from the Consent Calendar; and Vice-chair Grzan requested that item 14 be removed from the Consent Calendar as well.

Action: *On a motion by Agency Member Sellers and seconded by Agency Member Tate, the Redevelopment Agency Board unanimously (5-0) Approved Consent Calendar Item 12 as follows:*

12. MAY 2006 FINANCE & INVESTMENT REPORT - RDA

Action: *Accepted and Filed Report.*

13. CHAMBER OF COMMERCE ECONOMIC DEVELOPMENT MARKETING PLAN FOR FISCAL YEAR 2006-2007

Chairman Kennedy opened the floor to public comment.

Dan Ehrler acknowledged members of the economic development partnership between the Chamber and the City; in particular City staff members Joyce Maskell, Bill Newkirk, and Garrett Toy for their efforts in making the partnership work. He felt that what has been forged over the past year has been extraordinary and is making a difference. It was his belief that this partnership will lead to real opportunities, benefits and terrific results. He stated that Tim Hendricks and Bob Martin worked on marketing.

Chairman Kennedy said that when the Chamber held its last meeting, the subject of tourism and a regional approach to tourism was discussed extensively. There was a proposal to work together with Gilroy's Visitor Bureau to come up with a partnership. Unfortunately, the proposed partnership was not truly an equal partnership. It was proposed that the City of Morgan Hill contribute \$36,000 while Gilroy's Visitor Bureau contributes \$24,000, less \$12,000 in administrative costs. The Board did not suggest proceeding with this agreement, but intends to go back to Gilroy to see if something can be worked out. He inquired whether Mr. Ehrler had any news to report.

Mr. Ehrler said that the Chamber remains committed to doing what it can to establish a regional tourism program. It would be called the South Santa Clara Valley Tourism Partnership between Gilroy's Visitor Bureau and the economic development partnership with the City of Morgan Hill. He indicated that the Chamber's Chairman, Ted Fox, will be meeting tomorrow with the chairman of the Gilroy's Visitor Bureau to address the differences raised by Mayor Kennedy about an equal economic contribution by both entities. The differences raised at the Chamber's board meeting will be addressed tomorrow morning. He indicated that the Chamber is looking toward a resolution of this matter. If the details originally proposed are not a part of the contract, the Chamber will investigate whether it can partner, regionally, instead of having a South Santa Clara Valley Tourism partnership. He said the Chamber would like to take some of the \$36,000 from Morgan Hill's program and match these funds for advertising and other items separately. He stated that the Chamber will pursue a regional opportunity as well. He said that the Chamber would return to inform the Council about negotiations and the details that have been included in the contract before the Council this evening.

Agency Member Tate said that the Chamber will be going into a new area with a tourism program if it can be put together. He requested the Chamber focus on measurements as part of the Chamber's quarterly reports so that the Council can determine whether this is an area worth investing.

Mr. Ehrler said that the Chamber would be able to track hits on what would be separate websites and telephone numbers through advertising and tradeshow. He said the Chamber will be talking to hotel owners to request their assistance in finding out where their clients/customers are coming from. He indicated that the Chamber will be putting together a tracking system that will be important for everyone. He stated that the Chamber is also interested in determining how tourists find out about Morgan Hill. He informed the Council that the Chamber will return to the Council as soon as possible with whatever decision is made. If a change is needed, the Chamber will return to the Council with a recommendation.

In response to Vice-chair Grzan's question, Mr. Ehrler informed the Council that the mission/goal of the Economic Development Marketing Plan is to bring businesses into Morgan Hill in spaces and areas available, and to help facilitate a process to assist businesses relocating to Morgan Hill in order to create jobs and generate revenues.

Vice-chair Grzan recommended the Chamber describe the goal in terms of enhancing economic conditions/returns. He would like to know how the Chamber would measure its success in this area. He would also like to know how many new businesses were brought into the City under this plan.

Mr. Ehrler said that in the past year, one new business came to the City of Morgan Hill. He noted that 2-3 years ago, under the economic development program, the Chamber's campaign to bring Trader Joe's to Morgan Hill may have helped. He said that in the last couple of months, the Chamber has spoken to individuals who would like to start businesses in Morgan Hill. These individuals are looking for property. He said the Chamber has knowledge of available properties in the city. He said the Chamber included a special enclosure/insert entitled *Silicon Valley Now* in the San Jose Mercury Newspaper, and felt that it was an exceptional article that showcased Morgan Hill. He indicated that this insert was distributed to 65,000 homes in the peninsula area. He said that he would try to return to the Council with measurable goals for this plan.

Vice-chair Grzan said that he would be looking to see how the City would measure the economic return from this insert.

Executive Director Tewes said that the implementation of the City's economic development strategy is based on the Council's adopted economic development strategy. He noted that it has been one of the Council's goals to hold a workshop to review its existing strategy to determine whether or not its goals and objectives are appropriate. Given the City's budget situation, he said the City has been focusing on a fairly narrow aspect of economic development and encouraged the Council to think more broadly. Based on necessity, staff has been focusing on sales tax deals and helping commercial brokers fill up space. He stated that a truly broad economic development strategy would look toward attracting jobs and increasing revenues. Staff has been spending more time finding places where people can spend their money, rather than seeking opportunities to make money. He felt that economic development should be expanding the community's wealth and diversifying its economic base. Staff is hopeful that when the Council holds its economic strategy review, the Council will look broadly and develop appropriate mission/goal statements.

No further comments were offered.

Action: *On a motion by Agency Member Tate and seconded by Agency Member Sellers, the Agency Board unanimously (5-0): 1) **Accepted** the Fourth Quarter Report; and 2) **Authorized** the Executive Director to Prepare and Execute an Agreement, in an Amount Not to Exceed \$125,000, with the Morgan Hill Chamber of Commerce to Implement their Economic Development Partnership Scope of Services for Fiscal Year 2006-2007; Subject to Review and Approval by Agency Counsel.*

14. AMENDMENT OF ARCHITECTURAL CONSULTANT AGREEMENT FOR CENTENNIAL RECREATION CENTER (CRC)

Senior Project Manager Dumas presented the staff report; indicating that on April 19, 2006, the Council approved additional funds for building additions to the CRC. The additional fees included design fees for the architects to revise the drawings. On May 24, 2006, the Council approved staff's recommendation to pay additional construction administration fees to Noll & Tam. He said the Council's action of April 19 and May 24 approved the costs, however it was not clear that staff was requesting authority to amend Noll & Tam's contract. As a clarification, and to be conservative, staff is returning this evening for Council authority to amend the architect's contract. He said that staff is also

requesting authority to extend the term of Noll & Tam's contract and additional design fees to add site directional signage, electrical revisions and to study alternate gym floor graphics.

Vice-chair Grzan noted the staff report includes \$12,350 for YMCA office revisions at their request. He inquired whether these costs were being passed on to the YMCA.

Executive Director Tewes responded that the office revision charges are not being passed on to the YMCA. He stated that the design and construction costs are borne by the project budget. He clarified that the revisions are being proposed to the building to be developed and owned by the Redevelopment Agency. The City will be operating, in partnership, with the YMCA on a three-year agreement. He said that the YMCA requested changes at the Council's April 19, 2006 meeting and was his recollection that there was Council discussion at that time about whether or not the YMCA should participate financially. Staff reported then and now that it was staff belief that the office revisions are appropriate costs for the project.

Vice-chair Grzan said that it has been his experience that when a city opens a facility and it is modified at the request of the occupants, these costs are generally borne by the tenant. He inquired whether this would be a prudent approach in this case.

Executive Director Tewes noted that the YMCA has a short term operating agreement with the City. He clarified that the changes would be permanent improvements to the building. It is viewed that the improvements are needed in order to enhance the "membership" model. He stated that the Council adopted an approach on how to operate the facility that encourages memberships. He indicated that the YMCA would be the City's partner in providing the services and in marketing memberships. The YMCA suggests that the membership model requires modifications to the offices where staff will be located in order to interact with members. As the City adopted the membership model, the improvements would be for the benefit of the owners of the facility, and the public. He clarified that the changes were recommended by the YMCA in the approach they preferred, and that it was not something the City would have recommended had the city been the operator, absent the involvement of the YMCA.

Mr. Dumas informed the Council that the \$90,000 includes design fees (\$78,000 in construction costs and \$12,000 in design fees.)

Chairman Kennedy referred to the construction/administration fee of \$72,000. He noted the City has a strong construction manager on site. He inquired why the architectural firm believes it needs this amount for construction administration.

Mr. Dumas said that the architect's justification for the increased fee is for work they have to respond to. They would prepare supporting data for any claims or change orders for the project. They would also evaluate substitutions proposed by contractors. He said the City's construction manager relies on the architect's responses as they have control over the design and aesthetic of any proposed substitution. He stated the City's agreement allows for review of substitution as additional services, not a part of the original agreement.

Agency Member Carr noted that a vast majority of the costs are items the Council previously authorized in April 2006.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion by Agency Member Tate and seconded by Agency Member Sellers, the Agency Board, on a 4-1 vote with Vice-chair Grzan voting no: 1) **Authorized** the Executive Director to Amend Noll & Tam's Consultant Agreement to Allow for a Term Extension Until December 1, 2006; and 2) **Authorized** the Executive Director to Amend Noll & Tam's Consultant Agreement in the Amount of \$94,714 for Additional Services.*

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Mayor/Chair Kennedy requested that item 15 be removed from the Consent Calendar.

15. JOINT SPECIAL & REGULAR CITY COUNCIL AND SPECIAL & REGULAR REDEVELOPMENT AGENCY MEETING MINUTES OF JUNE 21, 2006

Mayor/Chairman Kennedy offered a correction to page 140 of the agenda packet, second to the last paragraph under City Council reports. He requested the second sentence be amended to read: "He attended a meeting last Thursday where they voted on a list of priorities for a 30-year long range plan."

Action: *On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Sellers, the City Council/Agency Board unanimously (5-0) **Approved** the June 21, 2006 Minutes, as Amended.*

City Council Action (Continued)

CONSENT CALENDAR:

Council Member Sellers indicated that he and Council Member Carr will need to recuse themselves from participating on Item 16 as they both reside, separately, within 500 feet from where construction is to take place.

Mayor Kennedy noted that staff requested that item 17 be removed from the consent calendar.

16. AWARD OF CONTRACT FOR 2006-2007 PAVEMENT CRACK SEALING PROJECT

Council Members Carr and Sellers recused themselves from participating on agenda item 16 and excused themselves from the Council Chambers.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Grzan, the City Council, on a 3-0 vote with Council Members Carr and Sellers absent: 1) **Awarded** Contract to Graham Contractors, Inc. in the Amount of \$35,100 for the 2006-2007 Crack Sealing Project; and 2) **Authorized** a \$3,500 (10%) Construction Contingency.*

Council Members Carr and Sellers resumed their seats on the Dais.

17. FOX HOLLOW/MURPHY SPRINGS LANDSCAPE ASSESSMENT DISTRICT SETTING OF ANNUAL PUBLIC HEARING – Resolution Nos. 6025, 6026, and 6027

Mayor Kennedy indicated that he resides within 500 feet of the Conte Garden Park project. Therefore, he would recuse himself and step down from discussion of item 17. He stepped away from the Dais.

City Manager Tewes indicated that this is a recommendation that the Council adopt the preliminary engineer's report and call for the public hearing for July 26, 2006. At that time, the Council will consider levying the assessments on a variety of landscape assessment districts.

Mayor Pro Tempore Grzan opened the floor to public comment. No comments were offered.

Action: *On a motion by Council Member Carr and seconded by Council Member Tate, the City Council, on a 4-0 vote with Mayor Kennedy absent: 1) **Adopted** Resolution No. 6025, Initiating Proceedings for the Levy of Assessments for Fiscal Year 2006-2007; 2) **Adopted** Resolution No. 6026, Providing Preliminary Approval of the Engineer's Report and the Proposed Assessment Levy; and 3) **Adopted** Resolution No. 6027, Declaring the City's Intention to Levy the Assessments in the District, and to set the Public Hearing Date for July 26, 2006.*

Mayor Kenned resumed his seat on the Dais.

City Council Action

PUBLIC HEARINGS:

18. ZONING AMENDMENT, ZA-05-09/DEVELOPMENT AGREEMENT, DA-05-08: CHURCH-ALCINI

Senior Planner Linder presented the staff report on a request for approval of a precise development plan for a proposed project to be located between Monterey Road and Church Avenue. She informed the Council that at the Planning Commission hearing, the applicant requested additional time to work out some numbers with the City's public works department with respect to the development agreement. She indicated that these applications were advertised for public hearing this evening. Therefore, staff recommends the Council continue the applications to July 19, 2006, following receipt of public testimony.

Mayor Kennedy opened the public hearing. No comments were offered.

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council unanimously (5-0) **Continued** this item to July 19, 2006.*

19. ZONING AMENDMENT, ZA-05-05/ DEVELOPMENT AGREEMENT, DA-0-5-04: EAST MAIN-MARRAD – Ordinance Nos. 1781 and 1782, New Series

Senior Planner Linder presented the staff report on a request for approval of a precise development plan for a 35-unit residential project. Also, the approval of a development agreement associated with the project located on the south side of East Main, past Calle Mazatan, across from the El Toro Elementary School.

Mayor Kennedy noted that this project looks similar to a project adjacent to his home, although located at a different location. He referred to the open space located at the corner that has a trail connecting to Diana Park. He inquired whether this was privately owned open space.

Ms. Linder clarified that a publicly accessed park is being proposed and would not have a fence separating the two parks. It is proposed that the ½ acre new corner park would be a part of the Belle Estate lighting and landscape assessment district.

Mayor Kennedy said that there has been a problem with the park adjacent to his development as the property owners did not provide for improvements. Therefore, the connecting trail may become a safety hazard as the surface is breaking up and may become a trip hazard. He said that there is a lack of maintenance because there is not enough money to maintain the park. He expressed concern that the City would be heading down the same path with the proposed park.

Ms. Linder noted that the development agreement before the Council this evening does not cover this particular phase or the subdivision map reviewed by the Planning Commission. She said that staff could look into Mayor Kennedy's concern; reviewing options as part of phase IV of this project, once it receives allocations and the City enters into the development agreement stage.

Mayor Kennedy supported Ms. Linder's recommendation that staff look at park maintenance alternatives for the proposed park as this kind of situation is not working in the residential development adjacent to his home. He would hate to see the City repeat the same mistake.

City Manager Tewes did not believe the City should be recommending new lighting and landscaping districts be established as part of new residential development.

Ms. Linder clarified that it is proposed to annex the proposed park with the existing park, and not to create a new lighting and landscape district. She stated that the park is not being created at this time, nor is it covered by the development agreement before the Council.

Mayor Pro Tempore Grzan shared Mayor Kennedy's concern in that the City has identified an area to be a park. At the discretion of the homeowners, they may decide not to maintain the park and that it will become an eye sore. He felt there has to be a legal way to require homeowners to maintain the park or for the City to maintain the park; billing the Agency or an entity for the cost to maintain the park.

Mayor Kennedy opened the public hearing.

Katherine Krenzel, Le Sabre Court, informed the Council that she and her family have been 17-year Morgan Hill residents. She resides in a neighborhood of 1,200-1,300 square foot single story homes. When they moved to Morgan Hill, they had an open field at the back of their fence. They always knew the vacant land would eventually develop, but felt confident the Council would consider the approval of development that would be consistent with the existing neighborhood. She informed the Council that her husband prepared a packet and sent it to the Council with a comparison of two homes before their home was developed, and a home designed directly behind their home. She said that the homes proposed behind their home have small setbacks and are designed to be two-story homes that look directly into their backyard. She stated that she does not have a problem with the development, but does have a problem with the development being a violent, massive two-story structure that they would be looking at out of their window(s). She understands the competition to develop is fierce and the need to build “big” is driven by developers. However, she did not believe that the merit of the design is an excuse for developing this type of development in a neighborhood that has been developed for some time. It is her hope the proposal would be sent back in order to consider the immediate environment and the placement of the homes. She expressed concern that the new homes would be very large and would look down onto her property. Also of concern are the small setbacks and siting the homes close to fences. She clarified that all the homes along Le Sabre Court and Grand Prix are single story homes. The Belle Estates homes were developed as two-story homes at the other end of the development. She did not believe the proposed development is taking into consideration the invasive affect they have on the existing single story homes.

Lisa Day Krenzel, a 17-year Morgan Hill resident, indicated that the homes along Grand Prix are single story homes and that the homes located on Montoya Circle are two-story homes. She felt it would be invasive to have gigantic buildings next to single story homes. She informed the Council that her father argued that additional setbacks are required. In looking at the map being presented, it appears the City and the developer have done a good job, but felt that the setbacks are not adequate. Even if the two-story homes were moved back, they would still take away from the horizon because of their height. Privacy is also an issue. She informed the Council that some of the community members have discussed solutions to the problem. She said that it was her understanding that there is a one-story option proposed with this development. She felt it would make sense to site one-story homes adjacent to existing one-story homes and two-story homes adjacent to existing two-story homes; otherwise, it would be a mismatch. She said that constructing two-story buildings on the other side of single story homes would create a narrow rift of one-story homes. She informed the Council that she is a runner and that it is difficult to access the east and west side of the neighborhood as all streets run north and south. She recommended that development better incorporate the community. She indicated that Diana Park is a public park and that it can be accessed by everyone in her neighborhood. She expressed concern with the proposed rectangular open space park that may be fenced and made into a private park. It has been her hope that the existing path would eventually lead to another park or recreational area. She stated her support of another public park, attaching the existing path to a public park.

Dick Oliver informed the Council that he acquired the project and would be developing the project. With regard to the park land located at the lower right hand corner of the site plan, he said that he would commit to doing whatever the City would like him to do. If the small park on the corner is owned and maintained by a homeowners association, the homeowners would maintain the park. However, the homeowners may come to the City at some point in time to address a problem with insurance for a

private park and concerns that the public is using the park. If included into a lighting and landscaping district, the City would control the landscaping and access to the park. He clarified that it was the intent/commitment to make the park accessible via the existing pathway. He is committed to installing landscape improvements along the pathway to make it look nice as well as accessible. He referred to lots 26, 27, 28 and 29, the lots that back up to the homes on Le Sabre Court. He indicated that lot 26 and 28 are single story homes in order to minimize the impacts to the existing homes. The houses to be built on Belle Estate are proposed as two story homes. He agreed that there is a problem in any community when you have new development adjacent to existing homes. Over time, as the price of new homes escalates; you tend to build two-story homes. He stated that homebuyers are seeking two-story homes to purchase. He felt that a few of the homeowners of the single family homes along Grand Prix will come to the City requesting improvements to their homes and/or to add a second story. He stated that he has tried to be sensitive to the needs of the neighborhood. He said that this has been the site of unsightly greenhouses for a long time; being vacant for the past two years.

Mayor Kennedy inquired whether it would be feasible for lots 27 and 29 to be designed as single story homes.

Mr. Oliver clarified that lots 26 and 28 are designed as single story homes. He said that it is possible to design one additional single story home, but that he would have to reduce the open space park area because the single story home has a much wider lot in order to fit the home on the lot. He said that he cannot move any of the lots on the lower side because of existing utility lines. He could reduce the size of the park and change lot 2 to a one-story home. However, this would change the mix of homes; resulting in having three one-story homes in a row. If the Council felt this was important to do, he would agree to do so. However, he could not do so along Grand Prix as the dimensions do not allow him to do so. He stated that lots 10-16 along Grand Prix are two-story homes. He stated that lot 25 is a two story home and lot 23 is a single story home. He said that he could switch lots 25 and 23.

City Manager Tewes noted that all of the speakers, including Mr. Oliver, have addressed the issue of what to do in built up communities when two-story homes are proposed adjacent to single story homes. He said that through the architectural review process, the ARB and staff have been able to work with developers to provide windows that are offset or of a certain material so that potential conflicts are minimized, if not eliminated.

Mr. Oliver indicated that following this evening's Council approval, he will start to design the final map and improvement drawings. If he has to wait four months to go through an architectural review board before commencing design of the final map/improvement plans, it would result in time constraints. He noted that this project is behind. He said that he would need to proceed with minor changes quickly, which he is willing to do.

Mayor Pro Tempore Grzan noted that lots 9-16 are designed as two-story homes. He inquired whether Mr. Oliver could redesign to single story homes and increase the lot sizes.

Mr. Oliver said that he could not design single story homes and increase the lot sizes because the value of the land and the price paid for the property was based upon Measure C commitments and Measure C approval. When the project was developed by the applicant, they went through a Measure C process that

created the number of homes and the number of two-story homes that would comply with Measure C requirements. The project received approval/allotments. Based on this approval, commitments were made and the lots were priced based on the commitments. To request that the number of two-story homes be reduced as well as the number of homes, it would reduce the value of the project substantially; making the project infeasible because of the land price established.

Council Member Carr inquired whether the setbacks along Bel Air or Grand Prix are the same.

Mr. Oliver responded that the setbacks are similar. However, lot 15 could be pushed forward in order to achieve a larger back yard. He noted that Measure C requires that front and rear yard setbacks to be stepped. If Measure C relieves some of these requirements, a couple of the homes could be aligned. He stated that he would agree to increase the rear yard setbacks; resulting in the homes becoming more linear and closer to the street; resulting in a benefit to the neighbors.

Council Member Carr recommended the developer find ways to increase the size of the rear yards of the homes that have existing neighbors.

Mr. Oliver clarified that the BMR units are designed as two-story homes in order to provide four bedrooms and 2½ baths.

Mayor Kennedy supported swapping floor plans for lots 23 and 25.

Mr. Oliver stated that he would agree to swap lots 23 and 25 and provide some adjustments in setbacks along Bel Air Court, if provided the authority to do so by the Council. He would work with the Architectural Review Board to make these changes. He stated that he could not move lots 10 or 11 forward because of the 24-foot driveway setback. He said that Lot 12 could be moved forward a few feet; but that lot 13 could not be moved. He may be able to move Lot 14 forward and that Lot 15 could be moved up 4-5 feet. He said that it was his understanding that setback requirements for the first floor are 20 feet and 25 feet for the second floor. Moving the setback up by 5 feet would result in a 30 foot setback on the second floor and 25 feet on the first floor. He committed to moving the setbacks forward as far as he can and still achieve the 20 foot setback for the driveways.

Mayor Kennedy noted that this project went through Measure C to attain these allotments. He requested that the Council and residents' comments be forwarded to the ARB.

Roger Traverso concurred with the comments expressed by others this evening. He indicated that he owns a parcel located on Bel Air Way. He noted that there have been discussions about development along Grand Prix and Le Sabre Court. He was not sure whether Bel Air Way was addressed as far as lots 25 and 26 were concerned. He noted that the homes along Bel Air Way are all single family homes; expressing concern with privacy and obtrusiveness associated with the development of two story homes adjacent to existing single story homes. He addressed transitioning of development and felt that the proposed development is abrupt from the 1970s architectural design of the Blossom Hill tract to the two-story, more contemporary designed homes. He did not believe the site layout has the appropriate flow and would take away from some of the ambience of the neighborhood. If the development would locate single story homes adjacent to single story homes, it would mitigate concerns.

Mayor Kennedy noted the developer has agreed to incorporate some single family homes adjacent to existing homes as well as to increase the setbacks between two-story homes and existing single story homes. In addition, the residential project would be going before the ARB. He encouraged the residents to attend that meeting to share their concerns at that time as well.

No further comments being offered, the public hearing was closed.

Ms. Linder said that the home sizes range anywhere from 1,500-3,100 square feet. In response to Mayor Pro Tempore Grzan's question, she indicated that reducing the building footprint would provide additional relief to the backyard setback concern.

Mayor Pro Tempore Grzan noted that lot 16 appears to have adequate space to move to the right. He inquired whether there was sufficient space on the lot to make it a single story home.

Ms. Linder responded that staff could look to see if there is sufficient space to design a single story home on lot 16. Staff would also investigate rotating the building so that the building is not squared back to back with existing homes. She said that staff could ask the developer to consider a different model, if possible, in order to get a small footprint on the lot to allow for a greater setback. She stated that the Council can provide direction to the ARB (e.g., the ARB to look at the setbacks, window lineup, consider moving units forward, looking at rearranging some of the units to achieve greater setbacks, etc.).

Council Member Sellers indicated that he resides in an 80-year old house and has had development occur around them. There were two properties in the 1970s that had apartment complexes built on the backside. There are two story homes adjacent to his one story home and considers this to be far more intrusive than these homes. Adjacent to him, a home was recently built that was only five feet away and that it could have been more intrusive. He felt the difference was that the windows were designed higher and that the owners could not look down to the property below. Also, glass block was used in some of the area as well as a variety of architectural design and insulation factors that minimized the impacts to him and the surrounding neighborhood. He felt that these were all architectural issues and not issues for the Council to decide. He felt it important to understand that there is another step in the process that will go further than the Council can this evening. Further, the Council has made its intention clear about the placement of the second story units. He was confident that staff, working with the developer and understanding the community's needs and the Council's desire, they can make sure the impacts are minimized. He recommended the project is to be feathered, and if at all possible, to make this project one that everyone can be proud of, once built.

Mayor Pro Tempore Grzan stated that he has great sympathy for the area residents and that compatibility is an issue. It was his belief that if you have a single story home, a single story home should be built adjacent to it unless there are significant mitigating efforts made to allow a two story adjacent to a single story (e.g., significant setbacks so as not to be so intrusive). He felt that lots 10-16 should all be single story to lessen the impacts to the residents on Grand Prix Way. If there was something in Measure C that ties two-story homes along Grand Prix Way, the City needs to address this. It would be important to see compatible and non intrusive homes built along back sides of properties. He has seen communities not allow two-story homes designed close to a single story home as it is unfriendly development to allow.

He would like to see how the City can prevent this situation from occurring again in the future. The suggestion of a potential for the existing homes on Grand Prix Way to be converted to two-story homes sometime in the future is not for the Council to decide this evening. He felt that the Council was obligated to address the neighborhood concerns.

Council Member Carr thanked the residents for their correspondence and for coming before the Council, and to Mr. Oliver for his willingness to address some of the issues.

City Manager Tewes indicated that the Planning Commission scores Measure C applications; spending several hours on this application. He felt it might be appropriate, in the annual review of Measure C, to provide guidance to the Planning Commission on how they should apply the Measure C criteria. He stated that all issues were considered in the course of reviewing the Measure C applications.

Mayor Kennedy noted that Mr. Oliver and City staff have agreed to try and accommodate, to the greatest extent possible, the concerns raised by the neighbors. He noted that good suggestions were made this evening. He was confident that City staff and the ARB would be able to make further improvements to address concerns.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Waived** the Reading in Full of Zoning Amendment Ordinance No. 1781, New Series.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1781, New Series, by Title Only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT TO ESTABLISH AN R-1 7,000/RESIDENTIAL PLANNED DEVELOPMENT ON A 9.97 ACRE SITE LOCATED ON THE SOUTH SIDE OF EAST MAIN AVENUE APPROXIMATELY 400 FEET EAST OF THE CALLE MAZATAN/EAST MAIN INTERSECTION (APN 726-16-028) (ZA-05-05: EAST MAIN-MARRAD) by the following roll call vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Waived** the Reading in Full of the Development Agreement Ordinance No. 1782, New Series.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1782, New Series, by Title Only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT APPLICATION, DA-05-04 FOR APPLICATION MP-04-19: EAST MAIN-THRUST, APN 726-16-028, (noting***

comments expressed by Council) by the following roll call vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

20. ZONING AMENDMENT APPLICATION, ZA-05-30: CITY OF MORGAN HILL-COCHRANE PLAZA – Ordinance No. 1783, New Series

Senior Planner Linder presented the staff report on a proposed amendment to the permitted uses for the Cochrane Plaza shopping center located on the southeast corner of the intersection of Cochrane Road and Sutter Boulevard. She noted that earlier this year, the Council approved a ballot measure that proposed an amendment to the PUD zoning for the shopping center. On June 6, 2006, 82% of the voters in Morgan Hill approved Measure H, an amendment to the permitted uses for the Cochrane Plaza Shopping Center. She indicated that the amendment would eliminate the prohibition against grocery supermarkets and add grocery supermarkets as a permitted use. She said that in anticipation of the certification of the election, the Council is being requested to review the implementation of Measure H that would require an amendment to Section II A.2 of Ordinance No. 835, New Series, as shown on the ordinance before the Council that strikes out the elimination of the exclusion of and addition of grocery supermarkets as a permitted use.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1783, New Series.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1783, New Series, by Title Only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING ORDINANCE NO. 835, NEW SERIES, SECTION II A. 2; ELIMINATING THE EXCLUSION OF GROCERY SUPERMARKETS FROM THE LIST OF PERMITTED USES ALLOWED WITHIN THE PORTION OF THE MORGAN HILL BUSINESS PARK ZONED COMMERCIAL PLANNED UNIT DEVELOPMENT (PUD) (ZA-05-30: City of Morgan Hill-Cochrane Plaza)** by the following roll call vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

21. DEVELOPMENT AGREEMENT AMENDMENT, DAA-04-09: EAST DUNNE-DELCO – Ordinance No. 1784, New Series

Senior Planner Linder presented the staff report on a request to amend an approved development agreement and to allow for an exception to loss of building allocations for eight allocations awarded for the Jasper Park project currently under construction. She informed the Council that the final map for this project has been recorded for the first two phases and that the applicant pulled the necessary building permits on May 19, 2006. Unfortunately, with the amount of rain seen this year, the applicant's soils engineer would not allow work and was concerned with certification of the building pads, a requirement for meeting the commencement of construction threshold. She said that given the potential

inability to meet the commencement of construction deadline, the applicant has filed an application for extension of time. She informed the Council that the Planning Commission considered the request and recommends Council approval of the three month extension.

Mayor Kennedy opened the public hearing.

Don Lapidus, project manager representing Delco Homes, informed the Council that he would answer any questions it may have. He confirmed the project got caught in the rain and the water remained on site; approximately 1-3 feet below the soil. Therefore, it took longer than they thought to commence construction.

No further comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1784, New Series.*

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council **Introduced** Ordinance No. 1784, New Series, by Title Only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1733, NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-02-06: EAST DUNNE-DEMPSEY (DELCO) ALLOWING FOR A THREE MONTH EXTENSION OF TIME FOR COMMENCEMENT OF CONSTRUCTION FOR 8 ALLOCATIONS RECEIVED IN THE 2003 RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDOS) COMPETITION. (APNS 817-11-067 & 817-11-072) (DAA-04-09: E. Dunne-Delco), by the following roll call vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

22. DEVELOPMENT AGREEMENT AMENDMENT, DAA-04-05: BARRETT-ODISHOO – Ordinance No. 1785, New Series

Senior Planner Linder presented the staff report on a request to amend an approved development agreement and an exception to loss of building allocations for the Villas de San Marcos project located on the southwest corner of the intersection of Barrett Avenue and San Ramon Drive. She informed the Council that the project was awarded five building allocations for Fiscal Year 2005-06 and that the current development agreement requires the applicant commence construction by June 30, 2006. She stated that the applicant is requesting a six-month extension because the project had a delay at the request of the City's Public Works Department. The Public Works Department looked at the project's offsite commitments to San Ramon Drive and recommended the project shift its commitments onto Railroad Avenue in order to complete the 100 foot gap in road improvements. In doing so, the applicant experienced a delay. The Planning Commission recommends Council approval of a five month extension to pull permits and a four-month extension to commence construction; giving the applicant additional time to complete the improvement plans, record the maps and finish the building permit process.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1785, New Series.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1785, New Series, by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1738, NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-02-22 AND MC-04-13: BARRETT-ODISHOO, ALLOWING FOR A FIVE-MONTH EXTENSION OF TIME FOR OBTAINING BUILDING PERMITS AND A FOUR-MONTH EXTENSION TO COMMENCEMENT OF CONSTRUCTION OF 5 ALLOCATIONS RECEIVED IN THE 2003 RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) COMPETITION (APN 817-33-003) (DAA-04-05: Barrett-Odishoo), by the following roll call vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

City Council and Redevelopment Agency Action

OTHER BUSINESS:

23. MORGAN HILL DOWNTOWN ASSOCIATION (MHDA) FUNDING REQUEST

Director of Business Assistance and Housing Services Toy presented the staff report. He said that this item would authorize the Executive Director to prepare and execute an agreement with the Morgan Hill Downtown Association (MHDA) to fund their operations for Fiscal Year 2006-07. He informed the Council that in June 2006, the Council approved a resolution to initiate a special assessment proceeding to form a Property Based Improvement District (PBID) in the downtown. He said that the PBID would provide funding for services related to capital improvements, economic development and marketing, pedestrian safety, etc. He informed the Council that the public hearing to count the ballots is set for July 26, 2006. He informed the Council that at the June 2006 meeting, MHDA indicated that they would return to the Agency Board with their funding request this evening. The funding request is for \$75,000 in matching funds for the PBID budget. He said that the MHDA has indicated that providing funding at this time would allow them to hire the best executive director; given that the current executive director is leaving in June. He indicated that Agency funds would continue to fund the current operations of the MHDA as well as the future management of the PBID. Should the PBID ballot pass, an owners association would be elected and formed and that the owners association would fall under the umbrella of the MHDA. He indicated that staff considered other options and give consideration to the management structure for the PBID (e.g., contract with another entity besides the MHDA to operate the PBID; city to operate the PBID; or city to provide funding at a lower level). He stated that staff is supporting the request of \$75,000 in order to provide the PBID the ability to achieve success the first year. After the first year, staff is recommending that the MHDA and City staff sit down to determine the

appropriate level of funding to operate the PBID and the operations of the MHDA. If the PBID is not created, the funding would be used to wind down the operations of the MHDA.

Mayor/Chairman Kennedy opened the floor to public comment.

Gary Walton, President of the MHDA, requested Council/Agency continued support of the Downtown Association. He addressed the Downtown Association's accomplishments in the downtown over the past four years (e.g., special events, marketing the downtown, beautification programs, art programs, institution of a national main street forum, newsletter, bulletins, four annual membership meetings, crime prevention, traffic calming, economic development, etc.). He stated that the budget request before the Council is a bare bones budget. He noted that the MHDA will need to hire a new executive director. If the PBID passes, it would be a 50-50 partnership with the City and be the second step toward revitalizing the downtown. He stated that he forwarded a letter and a copy of the budget to the Council. He read a section from a book titled *Main Street Renewal, a Handbook for Citizens and Public Officials* regarding government's role in downtown revitalization; specifically, city halls' involvement ending after three years. He said that the book states that downtowns are never finished as the market is in constant flux and that it demands permanent management if it is to stay attractive and economically sound. Therefore, a commitment to this level of long term development remains permanent and that the public/private partnership is necessary to initiate a downtown program. He felt it important to continue the private/public partnership as it is a good business practice. He noted the City has invested a substantial amount of money for physical improvements in the downtown. He felt the \$75,000 would protect the City's investment and is a wise business decision. He requested the Council continue funding the MHDA so that the City's substantial investment in the downtown is protected.

Dan Ehrler stated the Chamber's strong support of the MHDA. He felt the Council/Agency's action this evening and what is being requested in the executive director position, is critical to the success of an organizational structure. He said that the director will be the driver who will help make the MHDA's vision come true and make the program succeed.

Dan Craig said that with his 20-years in the industry, having assisted three communities, and having consulted with numerous other towns, the commitment to funding varies in every town. However, he has never seen funding be for only 3-years. It was his belief that a city's funding commitment extends beyond three years.

No further comments were offered.

Council/Agency Member Tate said that he supports the direction of the PDIB, but that it should be an objective to make the MHDA a 50/50 (equal) partnership.

Council/Agency Sellers indicated that the Economic Development Committee reviewed the request by the MHDA and that the Committee recommends the City include both the Redevelopment Agency Plan Amendment and the PBID for consideration. Also, discussed was a course of action to take should one or both of these items not pass. He agreed that this is a partnership that varies and that the City would start to see a shift. He stated that this is a big year for the downtown in terms of structural changes that will be seen at Depot and other places, and with the PBID coming on line. He said that he was

instrumental in bringing Mr. Craig to Morgan Hill as he was familiar with his work. He felt the City was fortunate to have him here. Although Mr. Craig is leaving his post on the MHDA, he was pleased to hear that he would be remaining in Morgan Hill; looking at starting his own business in the downtown. Therefore, he felt Mr. Craig would continue to contribute to the downtown and that his expertise would come into play in the MHDA and the efforts to be undertaken by the City in the coming years.

Action: *Council/Agency Member Sellers made a motion, seconded by Council/Agency Member Tate, to **Authorize** the Executive Director to Negotiate, Prepare, and Execute an Agreement with the MHDA in an amount of \$75,000, Subject to Agency General Counsel Approval, to Fund the Operations of the MHDA for Fiscal Year 2006-2007.*

Mayor Pro Tempore/Vice-chair Grzan noted that this evening, the Council/Agency approved \$125,000 to the Chamber and would be acting on granting another \$75,000 to the downtown district, a \$200,000 investment. Although these are worthwhile activities, he expressed concern the City would be diverting \$200,000 from the street funds as streets are intrical to the City's infrastructure. Should the City not have enough money in the street funds, there will be problems in the future. While he understands the value of these issues, he did not know how the City could fund these agencies.

Council/Agency Member Carr stated that the Economic Development Committee has spent time on this item and spent time with the MHDA discussing this budget. Therefore, the Committee has had a greater opportunity to study this item in depth. He clarified that these dollars are coming from the Business Assistance and Housing Services budget that is being funded through the Redevelopment Agency and economic development dollars; not from general fund dollars. He agreed with Council/Agency Member Tate that the goal needs to be of getting to an equal partnership, and ultimately trying to get to a place where less public dollars are going into this. He was not sure the City would see the day where public dollars would not be going into the downtown at some level, but that the PBID needs to get to place where it is sustainable on its own. It was his belief that the MHDA Board agrees with this direction.

Vote: *The motion carried unanimously (5-0).*

City Council Action

OTHER BUSINESS:

24. WATER PRESSURE REDUCTION INCENTIVE PROGRAM

Director of Public Works Ashcraft indicated that this item is a result of two property owners from the Woodland Acres area approaching the City last fall about their concern about water pressure issues in the City. He said the Utilities and Environment Committee is recommending Council support of a water pressure reduction incentive program. He said that there will be approximately 62 residents in the City who will have water pressures over 150 psi, following the completion of the City's capital project to reduce water pressure in certain areas of the City. Staff will contact the 62 property owners and inform them of the City's incentive program whereby the City would be willing to pay half of the cost up to \$700 of installing a new pressure regulator valve.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Mayor Pro Tempore Grzan stated that there are some high pressure areas in the City and that this program will take out a significant number of homes from high pressure areas. He indicated that the Utilities and Environment Committee supports and recommends approval as it is in the best interest of the community and the residents. It also gives residents some assurances the issues that occurred last fall would be less likely to occur in homes that take advantage of this program.

Mayor Kennedy informed the Council that when the Committee first began the series of meetings on this issue, there were a lot of upset/angry residents. By the time the work was completed and public works staff came up with this program, it was a successful resolution. He felt the neighbors are pleased and satisfied with the ultimate recommendation before the Council.

Action: *On a motion by Mayor Pro Tempore Grzan and seconded by Mayor Kennedy, the City Council unanimously (5-0) **Directed** Staff to Implement a Water Pressure Reduction Incentive Program.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

Mayor Pro Tempore Grzan indicated that a week ago, a young man died on DeWitt Avenue on what he considers to be one of the most dangerous curves in Morgan Hill. He requested that staff return with suggestions on how to mitigate the s-curve in the future.

Mayor Kennedy supported adgendizing the discussion of identifying mitigation measures to the s-curve portion of DeWitt Avenue, between Spring and Edmundson Avenues. He noted that there have been two young men who have died in this location.

City Manager Tewes informed the Council that staff has initiated conversations with County staff about safety measures that are in place and what other safety measures could be made; noting that this is a county road. He stated that the County has indicated there may be a grant opportunity and that City staff would support the County in their application to address these issues. He said that ultimately, the road needs to be straightened out.

Mayor Kennedy requested a County representative be invited to a Council meeting when this item comes back to the Council.

Mayor Pro Tempore Grzan clarified that he would like staff to return to the Council with the County's efforts to mitigate the s-curve on DeWitt Avenue; discussing ways to correct/mitigate the situation. To be discussed are interim measures until such time the road can be straightened (e.g., widen the road, install guard rails, install buffers).

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 9:25 p.m. (Note: The Council adjourned to closed session under the Special Meeting Agenda as it relates to the City Manager's Performance evaluation.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY